UNITED STATES PATENT AND TRADEMARK OFFICE

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10/816,575	04/01/2004	Gregory E. Borchers	SLA1461	1234

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EXAMINER
WANG, JUE S

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 April 2009*.
2a)☐ This action is **FINAL**.　　　2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-26* is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *17-26* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some * c)☐ None of:
　　　1.☐ Certified copies of the priority documents have been received.
　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 17-26 have been examined.

2.   Claims 1-16 were cancelled in amendment dated 3/7/2008.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 17, 19, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Guess (US 2003/0204711 A1), in view of McGowan et al. (US 2005/0028165 A1, hereinafter

McGowan), further in view of Yuh et al. (US 7,093,003 B2, hereinafter Yuh).

5.   As per claim 17, Guess teaches the invention as claimed, including a method for

preserving configuration data during firmware modification (see [0042], [0044]), said method

comprising:

a) establishing a direct serial connection between a firmware device and a download

computing device (see [0045]);

c) uploading firmware configuration data, from an existing firmware structure in said firmware

device to the download computing device (see [0046]);

d) storing said firmware configuration data on the download computing device (see [0046]);

e) erasing firmware, including said firmware configuration data, from said firmware device (see

Fig 3, [0021], [0047]);

f) loading a new firmware structure from said download computing device to said firmware

device over said direct serial connection (see [0047]);

g) loading said firmware configuration data from the download computing device to said

firmware device over said serial connection (see [0050]).

Guess does not teach a web-based data management utility residing on a server, a

network connection connecting said firmware device, said download computing device, and said

web-based management utility. Guess also does not teach uploading and storing firmware

configuration data over the network connection, from an existing firmware structure in said

firmware device to the web server using web-based administration utility, wherein said web-

based administration utility performs said uploading by pulling data from said existing firmware

structure without loading any software onto said firmware device, and loading the firmware

configuration data from the web server to the firmware device over the network connection.

McGowan teaches a web-based data management utility residing on a server (see Fig 1,

Fig 2, [0029], [0031]), a network connection connecting a computing device and said web-based

management utility (see Fig 1, Fig 2, [0025], [0029], [0031]) and uploading configuration data

from the computing device to the web server using the web-based administration utility, wherein

said web-based administration utility performs said uploading by pulling data from said existing

firmware structure without loading any software onto said firmware device, and loading the

configuration data from the web server to the computing device (see [0007], [0029], [0040],

[0041]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to contain a web-based data management utility residing on a server, a network connection connecting said firmware device, and said web-based management utility, and uploading configuration data from the firmware device to the web server using the web-based administration utility, wherein said web-based administration utility performs said uploading by pulling data from said existing firmware structure without loading any software onto said firmware device, and loading the configuration data from the web server to the firmware device as taught by McGowan because the server system allows a copy of the latest configuration of the enterprise application to be maintained so that the user's settings can be restored (see [0007] and [0040] of McGowan).

Guess and McGowan do not explicitly teach that a network connection is established between the downloading device, a web-based device administration utility on a web server and a firmware device.

Yuh teaches establishing a network connection between a downloading device, a web server and a firmware device to upload information from the firmware device to the server (see Fig 2, column 4, line 63 – column 5, line 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Guess such that a network connection is established between the downloading device of Guess and the web server of McGowan to store the firmware configuration data from the firmware device of Guess as similar to the communication scheme taught by Yuh such that a PC can be used to initiate communication with a server (see column 5, lines 1-6 of Yuh) when the firmware device is not capable of establishing direct communication with a server.

6.   As per claim 19, Guess teaches modifying the configuration data prior to said loading said configuration data (see [0049]-[0051]).

        Guess does not teach the modifying is performed with the web server.

        McGowan teaches that the web-based administration utility on the web server performs modification of configuration data (i.e., the server will reconcile the new updated properties file with the reconciled properties files in server database prior to push down, see [0041]).

        It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to use the web-based administration utility to perform the modification as taught by McGowan to allow the device receiving the configuration file to contain an up-to-date, cumulative configuration of the application (see [0041] of McGowan).

7.   As per claims 22 and 24, these are system claims with limitations that are substantially similar to claims 17 and 19. Therefore, they are rejected using the same reasons as claims 17 and 19.

8.   Claims 18, 20, 21, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guess (US 2003/0204711 A1), in view of McGowan et al. (US 2005/0028165 A1, hereinafter McGowan), further in view of Yuh et al. (US 7,093,003 B2, hereinafter Yuh), as applied to claims 17 and 22 above, further in view of Woodward et al. (US 2002/0104080 A1, hereinafter Woodward).

9.   As per claim 18, Guess teaches converting said configuration data to a format compatible

with said new firmware structure prior to loading said firmware configuration data (see [0049]-

[0051]).

        Guess, McGowan, and Yuh do not teach that the conversion is performed by the web-

based device administration utility on the web server.

        Woodward teaches that the web-based administration utility on the web server performs

conversion of configuration data (see [0052], [0053]).

        It would have been obvious to one of ordinary skill in the art at the time of the invention

to have modified the system of Guess to use the web-based administration utility to perform the

conversion as taught by Woodward because the server system can be periodically updated to

accommodate new and different systems, and formats (see [0013] of Woodward).

10.   As per claim 20, Guess, McGowan, and Yuh do not teach querying network elements to

ascertain additional configuration data needed by said new firmware structure.

        Woodward teaches computer devices querying network elements to ascertain additional

configuration data needed by new applications on the computer device (see [0012], [0053],

[0235]-[0237]).

        It would have been obvious to one of ordinary skill in the art at the time of the invention

to have modified the system of Guess, McGowan, and Yuh to query network elements to

ascertain additional configuration data needed by said new firmware structure as taught by

Woodward because the server system allows the configuration data to be updated to reflect

changes in software or to work with new and different systems, platforms, formats and programs (see [0012], [0013] of Woodward).

11.   As per claim 21, Guess does not teach combining said additional configuration data with said configuration data using said web-based device administration utility on said web server prior to said loading said firmware configuration data.

McGowan teaches that the web-based device administration utility on the web server combines additional configuration data with old configuration data prior to loading the configuration data (i.e., the server will reconcile the new updated properties file with the reconciled properties files in server database prior to push down, see [0041]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to combine said additional configuration data with said configuration data using said web-based device administration utility on said web server prior to said loading said firmware configuration data as taught by McGowan to allow the device receiving the configuration file to contain an up-to-date, cumulative configuration of the application (see [0041] of McGowan).

12.   As per claims 23, 25, and 26, these are system claims with limitations that are substantially similar to claims 18, 20, and 21. Therefore, they are rejected using the same reasons as claims 18, 20, and 21.

Response to Arguments

13.   Rejection of claims under §103(a):

14.   As per independent claims 17 and 22, Applicant argued that McGowan and Woodward

do not teach methods that relate to firmware changes. In response, Examiner submits that

McGowan and Woodward are not relied upon to teach firmware configurations. Rather, Guess is

relied upon to teach preserving configuration data during firmware upgrade (see [0013], [0014],

[0042], [0044]). McGowan and Woodward are cited to teach the use of a web server to store the

configuration settings. The method of Guess is properly modifiable by McGowan and

Woodward's server because Guess teaches first storing the firmware configuration to a PC (see

[0046]), and a PC would have the capability of communicating with a web server as taught in

McGowan and Woodward to store the configuration settings on the web server.

15.   As per independent claims 17 and 22, Applicant's argument that Guess, McGowan, and

Woodward do not teach a trio of devices is established with a direct serial connection between

two devices and a network connection between all three devices have been fully considered, but

are moot in light of the new ground of rejection.

16.   As per independent claims 17 and 22, Applicant argued that the combination of Guess,

McGowan and Woodward does not teach that firmware configuration is pulled from a firmware

device using a web-based administration utility without loading software for performing this act

onto the firmware device. Applicant's arguments have been fully considered and Examiner

respectfully disagrees. Examiner submits that Guess teaches the software for preserving the

firmware configuration settings can be executed on the PC (see [0046]-[0050]). Therefore, contrary to Applicant's assertion, Guess does not require the use of specialized software downloaded to the firmware device. In addition, McGowan teaches a web-based administration utility that uploads configuration data by pulling data from said existing firmware structure without loading any software onto said firmware device (see [0007], [0029], [0040], [0041]). The fact that McGowan has a preservation system on the mobile device does not prevent McGowan from meeting this limitation since the preservation system is not loaded by the web-based administration utility tool to pull the data.

Conclusion

17.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

   o   Rabbers et al. (US 7,257,649 B2) is cited to teach a method for transferring information during server synchronization with a computing device including the use of companion device between the handheld device and server to facilitate the transfer of information.

18.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jue S. Wang whose telephone number is (571) 270-1655. The examiner can normally be reached on M-Th 7:30 am - 5:00pm (EST).

       If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on 571-272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lewis A. Bullock, Jr./   Jue Wang
Supervisory Patent Examiner, Art Unit 2193   Examiner
                                                                          Art Unit 2193